

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

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Source Search Technologies, LLC,	:	
	:	Civil Action No. 2:04-cv-4420
Plaintiff,	:	
	:	
v.	:	FIRST AMENDED COMPLAINT
	:	FOR PATENT INFRINGEMENT
Lendingtree, Inc., IAC InterActiveCorp and:	:	AND JURY DEMAND
Service Magic, Inc.,	:	
	:	
Defendants.	X	

Plaintiff, by its undersigned attorneys, for its First Amended Complaint against Defendants,
alleges as follows:

JURISDICTION AND VENUE

1. This cause of action arises under the Patent Laws of the United States, 35 U.S.C. § 101 et seq.
2. Jurisdiction of the subject matter of this action is conferred on this Court by 28 U.S.C. § 1338(a).
3. Upon information and belief, Defendants transact business within this district, advertise and sell products and services within this district, derive substantial revenues from intra-state and inter-state commerce and have committed acts of patent infringement within this district and also without this district having injurious consequences within this district, and Defendants are otherwise within the jurisdiction of this

court. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400.

THE PARTIES

4. Plaintiff Source Search Technologies, LLC (“SST”) is a New Jersey Limited Liability Corporation having a principle place of business at 16 Winding Way, Upper Saddle River, New Jersey 07458.

5. Upon information and belief, Defendant LendingTree, Inc. is a North Carolina Corporation having a principle, regular and established place of business at PMB 008, 15105-D John J. Delaney Drive, Charlotte, North Carolina 28277.

6. Upon information and belief, Defendant IAC InterActiveCorp is a New York Corporation having a principle, regular, and established place of business at 152 West 57th Street, 42nd Floor, New York, New York 10019.

7. Upon information and belief, Defendant Service Magic, Inc. is a Colorado Corporation having a principal place of business at 14023 Denver West Parkway, Building 64, Suite 200, Golden, Colorado 80401.

8. Upon information and belief, Defendants Service Magic and LendingTree are subsidiaries, affiliates or otherwise related entities to Defendant IAC InterActiveCorp.

9. All Defendant entities are collectively referred to herein as “Defendants”, except where specifically noted.

ALLEGATIONS

10. SST is the owner by assignment of all right, title and interest of United States Patent No. 5,758,328, directed generally to a centralized computer that matches buyers and sellers of products and services via, for example, the Internet (“the ‘328 patent” or “the patent in suit”).

11. Long after SST’s predecessor invented and applied for patent protection directed to the technology in issue, Defendants began making, using, selling and/or offering for sale products and methods that infringe upon the ‘328 patent under one or more sections of 35 U.S.C. §271 as direct, contributory, and/or inducers of the infringement. Upon information and belief, Defendant IAC InterActiveCorp aids and abets the infringements of Defendants Lendingtree and Service Magic, with the specific intent to cause such infringements.

12. In particular, and upon information and belief, Defendant Lendingtree is the owner of a website at www.lendingtree.com (“the Lendingtree website”), which operates in direct accord with the language of the claims of the ‘328 patent. The Lendingtree website generates over a hundred million dollars in revenue per year for at least Defendant Lendingtree by operation of the exact method plaintiff previously patented. Upon information and belief, Defendant IAC InterActiveCorp runs and controls the daily operation of the Lendingtree website.

13. Upon information and belief, Defendant Service Magic is the owner of a website at www.servicemagic.com (“the Service Magic website”), which operates in direct accord with the language of the claims of the ‘328 patent. The Service Magic website generates substantial revenue by operation of the exact method plaintiff previously patented. Upon information and belief, Defendant IAC InterActiveCorp runs and controls the daily operation of the Lendingtree website.

14. Defendants continue to make, use, sell and/or offer for sale products and/or methods that

infringe upon SST's patent rights, and are believed to have full knowledge of such rights, and the intent to continue infringing such rights. Defendants infringement is willful.

COUNT I - PATENT INFRINGEMENT OF U.S. PATENT NO. 5,758,328

15. Plaintiff re-alleges all of the foregoing paragraphs as if fully set forth herein.

16. Defendants are liable to plaintiff for damages for patent infringement.

17. All of the acts of the Defendants are without the permission, license or consent of SST and, if allowed to continue, will cause irreparable injury to SST, unless enjoined by the Court.

18. Defendants have been unjustly enriched and SST is entitled to an accounting and award of damages, interest, attorneys' fees and costs.

19. Defendants' foregoing activities have damaged SST in an amount as yet unknown, but if Defendants' foregoing activities continue, SST believes damages will easily exceed the sum of \$100,000,000.

JURY DEMAND

20. Plaintiff hereby demands trial by jury.

PRAYER

WHEREFORE, Plaintiff demands judgment, including:

A. A declaration that Defendants products and services infringe SST's United States Patent

No. 5,758,328, and that such infringement is, was and will continue to be willful;

- B. An accounting and award for damages, interest, attorneys' fees and costs of this action;
- C. An award of treble damages for Defendants' willful infringement of the '328 patent;
- D. A permanent injunction against Defendants, prohibiting the continuance of their infringing activities; and
- E. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: October 15, 2004

s/Jeffrey I. Kaplan/
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CERTIFICATE OF SERVICE

I, Jeffrey I. Kaplan, hereby certified that on this 15th day of October, 2004, a true and correct copy of the **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND** was served on the following attorneys for defendants via first class mail, postage prepaid:

Kevin J. McKenna, Esq.
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- and -

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DATED: October 15, 2004

s/ Jeffrey I. Kaplan /
Jeffrey I. Kaplan